



# **COMMONWEALTH of VIRGINIA**

## **DEPARTMENT OF ENVIRONMENTAL QUALITY**

### **NORTHERN REGIONAL OFFICE**

13901 Crown Court, Woodbridge, Virginia 22193

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[www.deq.virginia.gov](http://www.deq.virginia.gov)

Matthew J. Strickler  
Secretary of Natural Resources

David K. Paylor  
Director

Thomas A. Faha  
Regional Director

**STATE WATER CONTROL BOARD  
ENFORCEMENT ACTION - ORDER BY CONSENT  
ISSUED TO  
NORTH SPRING BEHAVIORAL HEALTHCARE, INC.  
FOR  
NORTH SPRING BEHAVIORAL HEALTHCARE WASTEWATER  
TREATMENT PLANT  
VPDES Permit No. VA0067938**

### **SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15, between the State Water Control Board and North Spring Behavioral Healthcare, Inc., regarding the North Spring Behavioral Healthcare Wastewater Treatment Plant for the purpose of resolving certain violations of the State Water Control Law and the applicable permit and regulation.

### **SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "305(b) report" means the report required by Section 305(b) of the Clean Water Act (33 United States Code § 1315(b)), and Va. Code § 62.1-44.19:5 for providing Congress and the public an accurate and comprehensive assessment of the quality of State surface waters.
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.

4. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
5. "Discharge" means discharge of a pollutant. 9 VAC 25-31-10
6. "Discharge of a pollutant" when used with reference to the requirements of the VPDES permit program means:
  - (a) Any addition of any pollutant or combination of pollutants to surface waters from any point source; or
  - (b) Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.
7. "DMR" means Discharge Monitoring Report.
8. "Effluent" means wastewater – treated or untreated – that flows out of a treatment plant, sewer, or industrial outfall.
9. "Facility" or "Plant" means the North Spring Behavioral Healthcare Wastewater Treatment Plant located at 42009 Victory Lane in Leesburg, Virginia, which treats and discharges treated sewage and other municipal wastes, for the North Spring Behavioral Healthcare facility.
10. "North Spring" means North Spring Behavioral Healthcare, Inc., a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. North Spring is a "person" within the meaning of Va. Code § 62.1-44.3.
11. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
12. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
13. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the State Water Control Law.
14. "Permit" means VPDES Permit No. VA0067938 which was re-issued under the State Water Control Law and the Regulation to North Spring Behavioral Healthcare on August 4, 2016, and which expires on August 3, 2021.
15. "Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 USC § 2011 *et seq.*)), heat, wrecked or discarded equipment, rock, sand,

cellar dirt and industrial, municipal, and agricultural waste discharged into water... 9  
VAC 25-31-10.

16. "Pollution" means such alteration of the physical, chemical, or biological properties of any state waters as will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious to the public health, safety, or welfare or to the health of animals, fish, or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) an alteration of the physical, chemical, or biological property of state waters or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution but which, in combination with such alteration of or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state waters; and (iii) contributing to the contravention of standards of water quality duly established by the Board, are "pollution." Va. Code § 62.1-44.3.
17. "Regulation" means the VPDES Permit Regulation, 9 VAC 25-31-10 *et seq.*
18. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.
19. "State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3.
20. "Va. Code" means the Code of Virginia (1950), as amended.
21. "VAC" means the Virginia Administrative Code.
22. "VPDES" means Virginia Pollutant Discharge Elimination System.
23. "Warning Letter" or "WL" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.

#### **SECTION C: Findings of Fact and Conclusions of Law**

1. North Spring owns and Inboden Environmental Services, Inc. (IES, Inc.) operates the Plant. The Permit allows North Spring to discharge treated sewage and other municipal wastes from the Plant, to an unnamed tributary of Limestone Branch, in strict compliance with the terms and conditions of the Permit.
2. The unnamed tributary of Limestone Branch is located in the Potomac River Basin. DEQ ambient monitoring station 1aXGJ000.42 is located at Selma Lane, approximately 0.91 mile downstream from the Plant. According to the 2014 Integrated Report assessment for

this unnamed tributary, the aquatic life and wildlife uses are considered fully supporting. Citizen monitoring had previously noted a medium probability of adverse conditions for biota, resulting in observed effects for the aquatic life use. The fish consumption and public water supply uses were not assessed. This segment is impaired for the recreation use based on bacteria monitoring.

3. In submitting its DMRs, as required by the Permit, North Spring has indicated that it exceeded discharge limitations contained in Part I.A.1 of the Permit, for the weekly average quantity limit for Total Suspended Solids (TSS) and the weekly average concentration limit for TSS for January 2017, for the monthly average concentration limit for Biochemical Oxygen Demand (BOD<sub>5</sub>) for February 2017, for the weekly average concentration limit and the weekly average quantity limit for BOD<sub>5</sub> for March 2017, for the monthly average concentration limit for Ammonia as Nitrogen and the weekly average concentration limit for Ammonia as Nitrogen for August 2017, and for failing to meet minimum Dissolved Oxygen limitations for February, March, and May 2017. In addition, North Spring failed to submit the Pharmaceutical Management and Disposal Plan required by Part I.13 of the Permit in a timely fashion.
4. DEQ issued Warning Letters and Notices of Violation for the aforementioned effluent violations and failure to submit the Pharmaceutical Management and Disposal Plan in a timely fashion as follows: WL No. W2017-03-N-1013 issued March 15, 2017; WL No. W2017-04-N-1023 issued April 18, 2017; WL No. W2017-05-N-1005 issued May 18, 2015; and NOV No. W2017-06-N-0008 issued June 12, 2017; NOV No. W2017-07-N-0008 issued July 13, 2017; and NOV No. W2017-10-N-0003 issued October 10, 2017.
5. The Pharmaceutical Management and Disposal Plan was submitted to DEQ on May 12, 2017.
6. DEQ staff conducted an inspection of the Facility on September 29, 2017. During the inspection, DEQ staff observed solids in the immediate vicinity of the Facility's discharge pipe. These observations were documented in an inspection report dated October 6, 2017. North Spring's operator, IES, Inc., submitted a response to the inspection report on November 16, 2017, that noted the solids observed by DEQ staff on September 29, 2017, had been removed by a vacuum truck. The response also noted that the operator would monitor the outfall on a regular basis in the future. DEQ issued Notice of Violation No. W2017-12-N-0005 to North Spring on December 15, 2017, for this violation.
7. North Spring responded to the Warning Letters and Notices of Violation by submitting a plan and schedule of corrective action to address the effluent limitation exceedances. The plan and schedule are incorporated into Appendix A of the Order.
8. North Spring's operating logs indicate that it discharged treated wastewater from the Plant every day from January 1, 2017 through the present date.

9. Va. Code § 62.1-44.5 states that: “[E]xcept in compliance with a certificate issued by the Board, it shall be unlawful for any person to discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances.”
10. The Regulation, at 9 VAC 25-31-50, also states that except in compliance with a VPDES permit, or another permit issued by the Board, it is unlawful to discharge into state waters sewage, industrial wastes or other wastes.
11. Part I.A.1 of the Permit contains permit effluent limitations.
12. Part I.13 of the Permit states that “this permit shall require the development of a Pharmaceutical Management and Disposal Plan that shall address the proper handling, storage, and disposal of pharmaceuticals to prevent the discharge of unused medications into the wastewater treatment system. A plan shall be developed that is consistent with all applicable regulatory requirements, including those for the proper handling and disposal of solid, biological, and or hazardous wastes. The plan shall be submitted to DEQ for review and approval within 180 days of this permit reissuance date and shall be enforceable under the permit.”
13. Va. Code § 62.1-44.15(5a) states that a VPDES permit is a “certificate” under the statute.
14. The Department has issued no permits or certificates to North Spring other than VPDES Permit No. VA0067938.
15. The unnamed tributary of Limestone Branch is a surface water located wholly within the Commonwealth and is a “state water” under State Water Control Law.
16. Based on the results of the September 29, 2017 inspection, the submittal of monthly DMRs, and the submittal of the Pharmaceutical Management and Disposal Plan, the Board concludes that North Spring has violated, Va. Code § 62.1-44.5, 9 VAC 25-31-50, Part I.A.1, and Part I.13 of the Permit, by discharging treated sewage and municipal wastes from the Plant while concurrently failing to comply with the conditions of the Permit, as described in paragraph C(1) through C(15), above.
17. In order for North Spring to complete its return to compliance, DEQ staff and representatives of North Spring have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

#### **SECTION D: Agreement and Order**

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders North Spring Behavioral Healthcare, Inc., and North Spring Behavioral Healthcare, Inc. agrees to:

1. Perform the actions described in Appendix A of this Order; and

2. Pay a civil charge of \$12,425.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1104  
Richmond, Virginia 23218

North Spring Behavioral Healthcare, Inc. shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, North Spring Behavioral Healthcare, Inc. shall be liable for attorneys' fees of 30% of the amount outstanding.

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend this Order with the consent of North Spring Behavioral Healthcare, Inc. for good cause shown by North Spring Behavioral Healthcare, Inc., or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, North Spring Behavioral Healthcare, Inc. admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. North Spring Behavioral Healthcare, Inc. consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. North Spring Behavioral Healthcare, Inc. declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein.

Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.

6. Failure by North Spring Behavioral Healthcare, Inc. to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. North Spring Behavioral Healthcare, Inc. shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. North Spring Behavioral Healthcare, Inc. shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. North Spring Behavioral Healthcare, Inc. shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of any such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
  - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and North Spring Behavioral Healthcare, Inc.. Nevertheless, North Spring Behavioral

Healthcare, Inc. agrees to be bound by any compliance date which precedes the effective date of this Order.


11. This Order shall continue in effect until:

- a. The Director or his designee terminates the Order after U North Spring Behavioral Healthcare, Inc. has completed all of the requirements of the Order;
- b. North Spring Behavioral Healthcare, Inc. petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
- c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to North Spring Behavioral Healthcare, Inc..

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve North Spring Behavioral Healthcare, Inc. from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable

12. Any plans, reports, schedules or specifications attached hereto or submitted by North Spring Behavioral Healthcare, Inc. and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of North Spring Behavioral Healthcare, Inc. certifies that he or she is a responsible authorized to enter into the terms and conditions of this Order and to execute and legally bind North Spring Behavioral Healthcare, Inc. to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of North Spring Behavioral Healthcare, Inc.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, North Spring Behavioral Healthcare, Inc. voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 30<sup>th</sup> day of August, 2018.

For   
Thomas A. Faha Regional Director  
Department of Environmental Quality

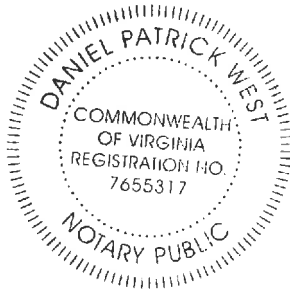


North Spring Behavioral Healthcare, Inc. voluntarily agrees to the issuance of this Order.

Date: 6-9-18 By: David White, CEO  
(Person) (Title)  
North Spring Behavioral Healthcare, Inc.

Commonwealth of Virginia  
City/County of London

The foregoing document was signed and acknowledged before me this 8 day of  
June, 2018, by David White who is  
CEO of North Spring Behavioral Healthcare, Inc. on behalf of the  
corporation.



[Signature]  
Notary Public

Registration No. \_\_\_\_\_

My commission expires: 6/30/2019

Notary seal:

## **APPENDIX A SCHEDULE OF COMPLIANCE**

North Spring Behavioral Healthcare, Inc. shall:

1. Complete all upgrades to the Plant detailed in the submittal dated November 30, 2017, no later than April 1, 2019. These upgrades include: 1) Upgrading the screening at the Facility; 2) Utilizing the spare equalization tank; 3) Installing post-aeration; 4) Upgrading the aeration system; and 5) Installing additional dissolved oxygen probes. Submit all necessary documentation to DEQ to obtain Certificates To Construct and Certificates To Operate for the upgrades as required. Should these upgrades fail to aid the Plant in achieving consistent compliance, upon written notification from DEQ, North Spring Behavioral Healthcare, Inc. shall submit a plan and schedule to DEQ, for the construction of a new Plant. Said plan and schedule shall be enforceable under this Order.
2. Complete the following maintenance related items identified in the submittal dated November 30, 2017, and submit documentation that these items have been addressed within 90 days of execution of this Order: 1) Maintenance of the grease trap and equalization basins; 2) Adjustment of clarification equipment; and 3) Review of the electrical equipment.
3. Submit quarterly status reports to DEQ on the progress of completion of the upgrades noted in paragraph 1. Said reports shall be due on April 10, 2018, July 10, 2018, October 10, 2018, and January 10, 2019. A final report documenting completion of all upgrades shall be submitted to DEQ by April 10, 2019.

4. **DEQ Contact**

Unless otherwise specified in this Order, North Spring Behavioral Healthcare, Inc. shall submit all requirements of Appendix A of this Order to:

**Attention Enforcement  
VA DEQ –Northern Regional Office  
13901 Crown Court  
Woodbridge, VA 22193**